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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,907	08/04/2003	Peter Szor	SYMC1035	7555
34350	7590	10/19/2006	EXAMINER	
GUNNISON, MCKAY & HODGSON, L.L.P. 1900 GARDEN ROAD, SUITE 220 MONTEREY, CA 93940			ALPHONSE, FRITZ	
			ART UNIT	PAPER NUMBER
			2133	

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,907

Applicant(s)

SZOR, PETER

Examiner

Fritz Alphonse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 12-18 is/are allowed.
- 6) ☒ Claim(s) 3,4,6,8-11 and 19 is/are rejected.
- 7) ☒ Claim(s) 5,7 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

0.1 This office action is in response to the amendment filed on 7/25/2006. Claims 1, 12 and 17 are amended. Claims 1-20 are pending.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3-4, 6, 8-11, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khazan (US Pub. No. 20050108562 A1) in view of Teal (US Pub. 2003/0120935 A1).

As to claim 3, Khazan (fig. 4A; [0040]) shows a method comprising: intercepting a request on a host computer system (114; [0073]); stalling the request ([0099]); and determining whether the request is suspicious ([0012]), wherein upon a determination that the request is suspicious, adding a request entry representative of the request to a request database ([0029]).

Khazan does not explicitly disclose a method determining whether malicious code activity is detected on the host computer system based upon the request entry.

However, in the same field of endeavor, Teal discloses a method for network security, wherein malicious code activity is detected on the host computer system based upon the request entry ([0040]).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention to combine Khazan's technique for automatic detection of malicious code with

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the network security method, as disclosed by Teal. Doing so would provide the ability to detect an intrusion into a proprietary computer network at the earliest possible time.

As to claims 4, 6 and 8, Khazan discloses a method, further releasing the request upon a determination that the request is not suspicious (fig. 8; [0094]).

As to claim 9-11, Khazan discloses a method, wherein the request is an HTTP GET request; and, wherein the intercepting a request on a host computer system occurs at the application level ([0036; 0045]).

As to claim 19, Khazan (figs. 8-12) discloses a computer program product comprising a computer readable medium containing computer program code for a method [(0016)] comprising: intercepting a request on a host computer system (114; [0073]); stalling the request ([0099]); and determining whether the request is suspicious ([0012]), wherein upon a determination that the request is suspicious, adding a request entry representative of the request to a request database ([0029]).

Khazan does not explicitly disclose a method determining whether malicious code activity is detected on the host computer system based upon the request entry. However, the limitation is obvious and very well known in the art, as evidenced by Teal ([0040]).

See the motivation for the same reason disclosed in claim 3 above.

Allowable Subject Matter

3. Claims 1-2, 12-18 allowed.
4. Claims 5, 7 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Response to Arguments

5. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection. The prior art of Teal has been added for new ground of rejection.

Conclusion

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks, Washington, D.C. 20231

or faxed to: (703) 872-9306 for all formal communications.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Fourth Floor (Receptionist).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz Alphonse, whose telephone number is (571) 272-3813. The examiner can normally be reached on M-F, 8:30-6:00, Alt. Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert De Cady, can be reached at (571) 272-3819.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3824.

Information regarding the status of an application may also be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fritz Alphonse

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October 10, 2006


ALBERT DECADY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100